Here is a variety of breaking news, interesting articles and opinions.
Ken

[hipaalive] National Governors Assoc calls to delay implementing HIPAA
HIPAALERT DHHS Begins Accepting Comments on Privacy Rule
[hipaalive] Enrollment Trans
[hipaalive] Health plans and covered entities
Sacramento Bee Bush delays sweeping medical privacy rules

>>> mjackson@OutlookAssoc.com 02/27/01 12:36PM >>>
*** This is HIPAAlive! From Phoenix Health Systems ***
From Health Data Management:

(February 27, 2001) The National Governors Association is calling for a significant delay in implementing the administrative simplification provisions of the Health Insurance Portability and Accountability Act. The act requires adoption of national standards for electronic health care transactions and code sets, and procedures to ensure the security and privacy of medical information.
The association recently posted on its Web site, www.nga.org a position paper on health insurance issues. In the paper, the association lays out a process for implementing HIPAA. While not specifying timelines, the process could take several years to complete. All state Medicaid programs fall under HIPAA's requirements. Association officials, attending the group's annual Winter Meeting in Washington, D.C., could not be reached for further comment.
What follows is the section of the position paper on HIPAA issues:
"The Governors support the administrative simplification reforms set forth in the Health Insurance Portability and Accountability Act to move the nation toward certain uniform standards for data interchange. However, states must be closely involved in the development of national standards to ensure that state needs are met and individual privacy rights are protected.

"Since enactment of HIPAA in 1996, it has become clear that the length and structure of its implementation period is unrealistic and untenable. The statute directs the U.S. Department of Health and Human Services to develop a series of regulations, each with their own implementation deadline. Unfortunately, it will be impossible for states to effectively comply with any part of HIPAA until all relevant regulations have been finalized and their implications can be assessed as a whole. Therefore, the Governors call upon Congress to amend HIPAA to revise the implementation schedule among the following principles:
* No state or other covered entity should be required to begin implementation of HIPAA until such a time as all HIPAA regulations have been finalized.
* A single, uniform date of compliance should be established after the finalization of all HIPAA regulations. Congress must allow states a sufficient and reasonable time period in which to implement this complex law and its multitude of regulations."

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H I P A A L E R T: NewsBrief Wednesday, February 28, 2001

>> From Phoenix Health Systems -- HIPAA Knowledge...HIPAA Solutions <<
> Healthcare IT Consulting & Outsourcing <

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** DHHS Begins Accepting Comments on Privacy Rule **

Today, the Department of Health and Human Services (DHHS) announced

the public comment period on the HIPAA Privacy Rule is again open and will close at 5 PM on March 30th. Comments may be mailed, hand-delivered or submitted through the Administrative Simplification web site. E-mail and fax comments are not being accepted.

In the notice published in the Federal Register, Secretary Thompson said, "The significance of the Privacy Rule for the health care industry and for society as a whole, and the substantial nature of some concerns that have been raised have led us to conclude that an additional comment period on the Privacy Rule is warranted."

The notice also stated, "Based on telephone calls, e-mails, letters, and other contacts with HHS, we are aware that the Privacy Rule has been the subject of widespread debate in the health care industry and the public at large in the almost two months since its publication. Thus, we believe that many of the public's concerns about the Privacy Rule have already crystallized. We accordingly are of the view that 30 days should be sufficient for the public to state its views fully to HHS."

As of Wednesday morning, the Administrative Simplification web site had not been updated to reflect this news, but is expected to shortly.

For more information and links, go to:
http://www.hipaadvisory.com/news/2001/dhhs022801.htm

>>> tom.hanks@beaconpartners.com 02/27/01 11:12PM >>>
*** This is HIPAAlive! From Phoenix Health Systems ***

The health plans do not have any leeway or choice in whether they are capable of conducting transactions electronically. For any activity that could be conducted using a standard transaction, if the health plan engages in that activity (e.g. eligibility, remittance advice, claims status, etc.), then the health plan must be capable of conducting those activities using the standard transactions.

Tom Hanks
Practice Director, Enterprise Security & HIPAA Compliance
Beacon Partners, Inc.

>>> tom.hanks@beaconpartners.com 02/27/01 11:12PM >>>
*** This is HIPAAlive! From Phoenix Health Systems ***

With the information given being sketchy, the best guess is:

1 - Since the information submitted to the state is required by law, no individual authorization required.
2 - If you are collecting and submitting the information on behalf of the physician, office then the physician office would need a business associate contract with you.
3 - If the patient requests an accounting of disclosures, you will need to include this disclosure in your accounting. If you are maintaining records on behalf of the physician office, you will also need to provide the accounting information to the physician office (as provided by the business associate contract) so they can provide an accounting to any patient that requests.
4 - If the information is de-identified according to the safe harbor provision, then it may be shared without regard to person or purpose. If it is not de-identified, other provisions apply which may include Institutional Review Board or Privacy Board issues.
5 - For use for the purpose of treatment - charting patients. If the information is created on your site then you can allow the physician access to their patient's information - no business associate contract required. If the information is created by the physician office and you are performing a service to them or on their behalf by storing or retaining the

information, then you must have a business associate contract.
6 - The Tumor Board meetings appear to be for the purpose of treatment and should be ok. If you share PHI for the purpose of accreditation, you would have to have a business associate contract in place with the accrediting body.

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-----Original Message-----
From: Lynn Grieves [mailto:LGrieves@memorialcare.org]
Sent: Tuesday, February 27, 2001 3:36 PM
To: HIPAAlive Discussion List
Subject: [hipaalive] Privacy

*** This is HIPAAlive! From Phoenix Health Systems ***

Does anyone have thoughts on how HIPAA will impact the following areas related to a Cancer program of a California Hospital?

1. Cancer Registry - The cancer registry department abstracts patient diagnostic and treatment data from the medical record for all cancer patients. There is a state law requiring that this information and follow-up data on all cancer patients be retrieved and submitted to the state on an annual basis. The registrars get this information from the hospital's medical records, from doctor's offices and sometimes from the patient themself. How will HIPAA affect our ability to get data from the doctor's office?

Currently we do not have a system to tell patients that their data is collected annually, and submitted to the state. Do I need to develop a system?

Also, physicians use the cancer registry data for research projects. Currently we will give them aggregate data with no individual identifiers. If the doctor requests data on his/her own patients, we will give them data with patient name, medical record number so they can do more detailed chart reviews.

2. Tumor Board meetings - The American College of Surgeons (ACOS) accreditation standards states that cancer programs should conduct prospective treatment planning conferences (also called tumor boards) to discuss the patient's case, and to develop a treatment plan. Tumor boards are attended by physicians and staff. In addition to the patient's own set of doctors, others may also attend. These conferences are approved for CME credit for the physicians. Are there problems with this?

Thanks for your input
Lynn Grieves
lgrieves@memorialcare.org

********** [hipaalive] RE:RE: Enrollment Trans **********
>>> HAROLD.DEWEIN@bcbssc.com 02/28/01 06:58AM >>>
*** This is HIPAAlive! From Phoenix Health Systems ***

While employers are not "covered entities" in their employer function they may be covered entities while engaging in the act of providing medical care via insured or self-insured plans. *see definitions of "group health plan" and "health plan".

However, each of the major types of plans (insured, self-insured, and self-administered) presents a different challenge to determining whether or not the employer's "medical care" function is required to use the 834.

In the case of the self-insured plan the enrollment is with a business associate (the administrator / processor) and in my opinion is not a transaction between covered entities.

In the case of the self-administered plan the enrollment is between internal business units and may require the use of the 834. I haven't given this much thought since I cannot see a compelling reason to enforce compliance within this type of arrangement. In otherwords it isn't anyone's else's business.

However, the case of the employer's medical care function (a covered entity, a health plan) contracting with an insurer (a covered entity, a health plan) for coverage; the enrollment/disenrollment transaction meets my interpretation of a covered entity performing a covered transaction with another covered entity. Unless HHS modifies the rule I see this communications as being required to be performed using the 834.

Again this is personal opinion based on my reading of the rules. Note "rules" and not the preambles. The preambles are NOT the law.

Harold

********** Bush delays sweeping medical privacy rules **********
>>> James McGinnis 02/26/01 12:11PM >>>
http://www.cnn.com/2001/ALLPOLITICS/02/26/health.privacy.reut/index.html

The text at the address reads:

> Bush delays sweeping medical privacy rules
>
> February 26, 2001
> Web posted at: 1:45 PM EST (1845 GMT)
>
> WASHINGTON (Reuters) - In a victory for the health care industry, the Bush administration will at least temporarily delay sweeping new regulations proposed by former President Bill Clinton aimed at protecting the privacy of patients, officials said Monday.
>
> One of Clinton's final directives before leaving office, the privacy rules were due to take effect Feb. 26, with the goal of giving patients greater control over their medical records and imposing stiff new penalties on health plans, Internet Web sites and others that distribute medical information without consent.
>
> But after a lobbying campaign by health insurers and other industry groups, President Bush's health and human services secretary, Tommy Thompson, agreed to push the effective date back to April 14 to give lawmakers more time to review the regulations and to decide whether they should be changed. Health care providers would not be forced to fully comply with the changes until April 14, 2003, officials said.
>
> Supporters of Clinton's rules, which would apply to most health care providers, argued that they were needed to combat privacy abuses in the Internet age.
>
> But major insurers, health maintenance organizations (HMOs) and other groups have increased pressure on the new Republican administration to put the rules on hold, arguing that they would set "unworkable standards" and cost the industry billions of dollars a year to implement.
>
> "We look forward to working with the Bush administration -- as we did with the Clinton administration -- to ensure that patients' medical records are secure, without jeopardizing the quality of health care upon which they depend," said Dean Rosen, senior vice president of policy at the Health Insurance Association

of America.

During the presidential campaign Bush spoke out in favor of privacy protections for patients, and Thompson said the current administration was "absolutely committed" to ensuring the privacy of medical records.

But industry groups said they expected the Republican administration and Congress to press for less costly and less intrusive changes in the coming months.

According to critics of Clinton's privacy rules, the changes would cost the health care system up to $18 billion over 10 years. Supporters of the rules say they would actually yield savings of $12 billion by streamlining regulations and billing practices.

Under the regulations proposed by Clinton, health care plans and providers would be required to inform patients about how their information is being used and to whom it is being disclosed.

Doctors and hospitals would be required to obtain written consent before using a patients' health information, even for routine purposes. Patients would also have the right to access their own medical files, as well as the right to request amendments or corrections.

Under the rules, protections would be extended to personal medical records, whether written or not, and would guard against their unauthorized use by companies in hiring new employees.

As proposed by the Clinton administration, the regulations would also create new criminal and civil penalties to punish those who improperly use or disclose personal health information. These would include a fine of up to $50,000 and a year in prison for intentional disclosure. Disclosure with intent to sell the data would be punishable by a fine of up to $250,000 and up to 10 years in prison.

The rules would not, however, cover life insurers and worker compensation programs, putting the onus on Congress to close several loopholes in the regulations.